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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

Dockets  
Rm 230

Mm Docket 92-266  
8 FEB 1993

IN REPLY REFER TO:

8310-MEA  
CN9300262

RECEIVED

FEB 10 1993

Mr. Art Chandler  
410 South Saint John  
Lyons, KS 67554

Dear Mr. Chandler:

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Senator Nancy Landon Kassebaum has asked me to respond to your recent letter in which you complain about rate increases by your local cable television operator.

The Commission has a clear understanding that Congress adopted the Cable Act of 1992 to constrain unreasonable cable rates. The Commission is in the process of formulating rules implementing the rate provisions of the law and is seeking public comment on those provisions that address rate rollbacks, refunds, and evasions of statutory requirements. The Commission will attempt to implement these provisions faithfully, and will consider the conduct of the cable industry during the interim period in deciding what kind of regulation is needed.

Your letter will be placed in the record of this proceeding so that the Commission can be mindful of your concerns during its deliberations. I trust that the foregoing and the enclosures are informative.

Sincerely,

*Roy J. Stewart*

Roy J. Stewart  
Chief, Mass Media Bureau

Enclosures

cc: Senator Nancy Landon Kassebaum

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# Congressional

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CONGRESSIONAL CORRESPONDENCE TRACKING SYSTEM  
01/28/93

## LETTER REPORT

CONTROL NO.	DATE RECEIVED	DATE OF CORRESP	DATE DUE	DATE DUE OLA(857)
9300262	01/28/93	01/19/93	02/10/93	

TITLE	MEMBERS NAME	REPLY FOR SIG OF
Senator	Nancy Kassebaum	BC

CONSTITUENT'S NAME	SUBJECT
Art Chandler	inq. re: rate regulation & 92 Cable Act

REF TO	REF TO	REF TO	REF TO
MMB	Enf	Q4I	

DATE	DATE	DATE	DATE
01/28/93	1-28-93	1-28	

REMARKS: Direct response to constituent. Copy to the attention of Ed Bolen.

28 JAN REC'D

NANCY LANDON KASSEBAUM  
KANSAS

# United States Senate

WASHINGTON, DC 20510-1602

January 19, 1993

*MMB  
catv-rates  
262*

Ms. Linda Townsend Solheim  
Director, Legislative Affairs  
Federal Communications Commission  
1919 M Street, N.W., Room 808  
Washington, D.C. 20554

Dear Ms. Solheim:

Because of my desire to be responsive to all inquiries and communications, your consideration of the enclosed letter from Mr. Art Chandler, 410 South Saint John, Lyons, Kansas 67554, is requested. Please respond directly to Mr. Chandler with a copy to my office, attention Ed Bolen.

Your findings and views will be appreciated.

Warmest regards,



Nancy Landon Kassebaum  
United States Senator

NLK:dw  
Enclosure

ART CHANDLER  
410 S. St. John  
Lyons, KS 67554  
316/257-3862

December 22, 1992

Senator Nancy Kassebaum  
302 Russell Senate Office Bldg.  
Washington, D. C. 20510

Dear Senator:

Enclosed are three informational letters regarding difficulties we are having with Multimedia Cablevision, Inc. and the Federal Communications Commission.

Mr. Firman Gladow, our city attorney, informed Mr. Fleming that sections 11 and 13 of our franchise/ordinance (also enclosed) seemed to adequately answer his negatives; and, further, that there was no permissive regulatory authority at the time this ordinance/franchise was written, thus the allowances of the two sections involved.

Mr. Gladow subsequently talked with Mrs. Glauberman who advised she was not really an expert on this subject (though she had been quite clear and explicit in her comments to me) and referred him to Mr. Ron Parver, and, in passing, commented that Mr. Fleming of Cablevision, Inc. had called some minutes earlier and she had also referred him to Mr. Parver. When Mr. Gladow finally reached Mr. Parver, he advised, without hesitation, that it appeared that Cablevision, Inc. was within its rights in refusing to back down from its rate increase.

It would appear Mr. Parver was entirely too quick in his response. I am not saying that there was any impropriety in his decision after talking with Mr. Fleming, but it does appear odd; the response was suggestive in its readiness.

Mr. Parvey asked Mr. Gladow why we would should be anxious about Cablevision's rate action since there are new regulations being promulgated to conform with Congress' latest revision of the cable act. First, we felt Multimedia was making an unjustified increase and that it was reasonable to assume that it was doing so in anticipation of presumed controls that might be forthcoming from the FCC. Secondly, we did not want to be pre-empted by failing to dispute the increase. Thirdly, it seemed prudent to ask Multimedia to explain the increase in light of current economics and ask what basis it was considering over and above the rather cursory explanation in its announcement of the rate increase.

The reason the city had deferred action until now was simply that there has not been a very clear picture of what our authority has been, considering the congressional turmoil about this issue the past couple of years. As a consequence, we were not really sure what courses were available to us until Congress did act this year.

I feel strongly that everyone should be put on notice that the city council attempted to act correctly on behalf of its constituents in attempting to hold back

this increase which many of us feel is an attempt to get a rate increase into effect before the FCC acts; a feeling shared in other quarters as well.

It seemed prudent to advise your office of this situation for whatever action you deem appropriate. It is possible that this could prelude our filing a formal complaint with the FCC against Multimedia Cablevision, Inc.

Sincerely,

A handwritten signature in cursive script, appearing to read "Art Chauden", with a long, sweeping horizontal flourish extending to the right.

encl:

cc: Sen. Robert Dole  
Rep. Pat Roberts  
Kevin McClure, City Council



Multimedia Cablevision, Inc.

Union Station, 701 E. Douglas, P.O. Box 3027, Wichita, Kansas 67201 - (316) 262-4270

"Equal Opportunity Employer"

David P. Fleming  
Vice President  
General Counsel

December 11, 1992

Mr. Firman G. Gladow, Esq.  
City Attorney  
City of Lyons, Kansas  
114 East Avenue South  
Lyons, Kansas 67554

RE: City of Lyons, Kansas, Franchise Agreement  
Ordinance No. 1510

Dear Mr. Gladow:

This will respond to your letter of December 9, 1992, in the above referenced matter. I must respectfully disagree with your conclusion that Multimedia cannot increase rates in any one year more than five percent (5%) without approval of the governing body. I believe the statutory provision you are referring to is contained in § 623(e)(1) of the Cable Communications Policy as of 1984 (47 U.S.C. § 543). That provision provides as follows:

In addition to any other rate increase which is subject to the approval of a franchising authority, any rate subject to regulation pursuant to this section may be increased after the effective date of this title at the discretion of the cable operator by an amount not to exceed 5 percent per year if the franchise (as in effect on the effective date of this title) does not specify a fixed rate or rates for basic cable service for a specified period or periods which would be exceeded if such increase took effect. (emphasis added)

As you know, Ordinance No. 1510 does not contain a provision governing approval of rate increases by the City of Lyons. Consequently, § 623 dealing with a permitted five percent (5%) is inapplicable.

Mr. Firman G. Gladow, Esq.  
December 11, 1992  
Page 2

Although Congress recently adopted an amendment to the 1984 Cable Act to provide for additional rate regulation procedures and standards, that provision does not become effective until April 3, 1993. Thereafter, the FCC's rules will clarify the extent to which cities may or may not engage in basic rate regulation. In the meantime, however, Multimedia's announced increase is appropriate under both federal and local law.

If you would like to discuss this or if I can provide you with any additional information, please do not hesitate to contact me.

Sincerely,

  
David P. Fleming

DPF:sc

cc: Linda Jurgensen  
Ben Sciortino

FIRMAN G. GLADOW  
ATTORNEY AT LAW

P.O. BOX 493  
114 EAST AVENUE SOUTH  
LYONS, KANSAS 67554

Area Code (316) 257-5134

December 9, 1992

MULTIMEDIA CABLEVISION, INC.  
Union Station  
701 East Douglas  
PO Box 3027  
Wichita, KS 67201

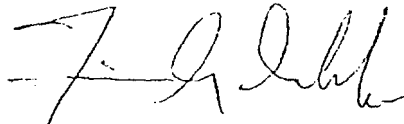
RE: CITY OF LYONS, KANSAS FRANCHISE AGREEMENT  
ORDINANCE NO. 1510.

Gentlemen:

Please be advised that the governing body of the City of Lyons, Kansas objects to the 6.4% increase in the media cablevision rates in the City of Lyons, Kansas. It is the understanding of the governing body of the City of Lyons, Kansas that your company cannot increase rates in any one year more than 5% without approval of the governing body.

If you desire to increase rates more than 5%, I believe that you should notify the City of Lyons, Kansas and establish a time that your committee can be heard relative to your proposed rate increase.

Yours very truly,



FIRMAN G. GLADOW  
City Attorney  
City of Lyons, Kansas

FGG:ey

cc: Mrs. Norma Miller  
City Clerk  
CITY OF LYONS, KANSAS  
217 East Avenue South  
Lyons, KS 67554

MULTIMEDIA CABLEVISION, INC.  
112 East Avenue South  
Lyons, KS 67554



ART CHANDLER  
410 S. St. John  
Lyons, KS 67554  
316/257-3862

December 21, 1992

Marcia Glauberman  
Mass Media Bureau  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D. C. 20554

Dear Ms. Glauberman:

It's doubtful that I stand alone as a confused American when it comes to the current status of cable regulation. A year ago we were given to understand that small communities being served by six or less over-the-air signals or no more than one cable system would be allowed some control of over rates and service fees of our cable supplier.

It was our understanding that the franchisee could not increase their rates over five per cent without local approval.

This past fall Congress re-instituted controls which would be implemented, we supposed, through the FCC.

Today we have received notice from our cable company that rates will be increased 6.4% effective January 1, 1993. Last January 1, the cable company was very careful to increase the rate only five per cent presumably so the city could not challenge the increase.

Would you mind giving us a hint as to where and what the controls are now? Maybe an informed guess? And, specifically, is this rate increase legal?

Sincerely,



ART CHANDLER  
410 S. St. John  
Lyons, KS 67554  
316/257-3862

December 21, 1992

City Council  
City of Lyons  
Lyons, KS 67554

Re: Multimedia Cablevision, Inc., Rate Increase

Dear Folks:

Marcia Glauberman, spokesperson for the Federal Communications Commission, notified me this morning by phone that the city can impose rate regulation under the last FCC rulings by simply notifying in writing the franchisee that it is exercising its rate authority. There seems to be no question that Lyons falls in the non-competition category as defined by the FCC.

In this case, the city can impose restrictions on increases that exceed the 5% allowable under the FCC ruling. Multimedia's announced intention to raise the rate by 6.4% effective January 1, 1993, could thus be limited to that 5% if the city so chooses. If the city does so choose, this action must be done before the rate goes into effect January 1, 1993.

The franchisee can object if they wish and the city can entertain reasons for those objections, but it is important that the city put the franchisee on notice. If the city does not give the cable company notice, we will continue to be governed by the Cable Act of 1984. I would recommend that the city formally notify the company that we intend to exercise our right whether any specific regulations are implemented just to avoid being preempted by oversight.

Ms. Glauberman informed me that the FCC will be publishing new rules and regulations in the spring of 1993 to implement the Cable Act of 1992. At that time, she indicated, the rules would be more clearly defined, the city's authority would be even greater and in some cases may be retroactive.

Ms. Glauberman recommended that any questions be directed to her at (202) 632-3410 rather than by mail.

Sincerely,



cc: John Sayler, Lyons Daily News  
Firman Gladow, City Counsel

SECTION 8 - CUSTOMER SERVICE

Multimedia shall maintain a business office or agent in the local area, reachable by a toll-free telephone call, for the purpose of ordering service, receiving and resolving all complaints regarding the quality of service, equipment malfunctions and similar matters.

SECTION 9 - DISCRIMINATION PROHIBITED

Multimedia shall not refuse to hire or employ, nor bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of age, race, creed, color, national origin or sex.

SECTION 10 - BOOKS AND RECORDS

The Municipality reserves the right to inspect all pertinent books, records, maps, plans, financial statements and other like materials of Multimedia with respect to this franchise, upon reasonable notice and during regular business hours.

SECTION 11 - RESERVATION OF RIGHTS

The Municipality reserves the right to adopt, in addition to the provisions contained in the franchise ordinance and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police power; provided, however, that such regulations shall be reasonable and not materially in conflict with the rights and privileges granted in the ordinance, or with any provision of federal law.

SECTION 12 - DURATION AND RENEWAL

This ordinance shall remain in full force and effect for a period of twenty (20) years from the effective date hereof. Thereafter renewal of the ordinance shall be governed by applicable federal and, to the extent not inconsistent therewith, state law. Sixty (60) days prior to every fifth (5th) anniversary of this franchise, either the City or Multimedia may request a review of the rate of compensation paid to the City hereunder by written notice given by the requesting party to the other party. If as a result of any such review, which review shall be conducted at a public hearing the purpose for which legal notice shall have been given at least seven (7) days in advance, the rate of compensation is increased, Multimedia shall have the right to pass such increase through to its subscribers, provided that in no event shall the rate of compensation be increased if such action would result in increases in the rate of compensation paid to other cities served by Multimedia, nor shall the rate of compensation ever exceed 5%.

SECTION 13 - GOVERNING LAW

This ordinance and Multimedia's performance hereunder is subject to all applicable provisions of the Communications Act of 1934, as amended, and regulations promulgated by the FCC pursuant thereto, as well as state laws or regulations governing cable television operations not inconsistent therewith.

SECTION 14 - DEFAULT

This franchise is revocable by the City for substantial default by the Company of a material term of the franchise. The City shall provide written notice to the Company of any such default. If the Company